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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/216, 036 12/18/98 WARREN

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EXAMINER

MEHRPOUR, N

ART UNIT	PAPER NUMBER
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2682

DATE MAILED:

04/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/216,036	Applicant(s) Richard H. Warren
	Examiner Naghmeh Mehrpour	Group Art Unit 2682

Responsive to communication(s) filed on _____.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-8 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-8 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-8**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallinckrodt (US Patent Number 5,940,753) in view of Bond et al. (US Patent Number 3,836,969).

Regarding **Claims 1, 3, 5-6, 7, 8**, Mallinckrodt teaches a satellite communication system wherein, a first satellite antenna 22 for receiving the return communication signal from the one of the plurality of satellites (See figure 1 b, antenna on top of the car 22 is a small diameter and transmits wide beam signals to both satellites (62) and receive from one of the satellites 62, (Column 8 lines 44-53), means for generating a return communication signal from each of the plurality of satellites, See figure 1 b, return signal is shown generates from satellites (62(20)), and a second large satellite antenna 42 for receiving the return communication signal from only one of the plurality of satellites (62(20)), (See figure 1b, the antenna 42 has a large diameter generate a narrow beam signal), Mallinckrodt fails to teach that a satellite antenna repositioning system for repositioning the second antenna when the sun transits within the beamwidth of the second antenna, a receiver for receiving communication signals at one of the first and second antenna, the receiver including an antenna switch selector for selectively activating second antenna during

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periods when the sun transits within a beamwidth of the first antenna. However Bond teaches a satellite antenna repositioning system for repositioning the second antenna when the sun transits within the beamwidth of the second antenna (See figures 5a, 7, 9, Column 5 lines 23-50, Column 9 lines 3554). Bond also teaches a receiver for receiving communication signals at one of the first and second antennas, the receiver including an antenna switch selector for selectively activating second antenna during periods when the sun transits within a beamwidth of the first antenna (Column I I lines 7-14). Therefore, it would have been obvious to the ordinary skill in the art at the time the invention was made to provide the above teaching of Bond to Mallinckrodt, in order for satellite system to avoid sun transit outage.

Regarding **Claims 2, 4**, Mallinckrodt teaches that a diameter of the second 42 and third 46 satellite antenna is greater than a diameter of the first satellite antenna 22 (See figure 1 b, numerals 42, 46, 22).

Response to Arguments

3. Applicant's arguments filed 2/6/01 have been fully considered but they are not persuasive.

In response to applicant's argument regarding Claim 1 that "*Mallinckrodt does not teach a satellite antenna repositioning system for repositioning the second antenna when the sun transits within the beamwidth of the second antenna, and Bond does not teach a system for repositioning a second antenna, because Bond dose not teach a second antenna, but rather the repositioning of a single antenna*

" However Bond teaches a satellite antenna repositioning system for repositioning the antenna when the sun transits within the beamwidth of the antenna and since

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Mallinckrodt teaches a second antenna, it would have been obvious to the ordinary skill in the art at the time the invention was made to provide Bond teaching to Mallinckrodt, in order for satellite system to avoid sun transit outage. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicants argument regarding Claim 6 that “*the Examiner fails to point to any reference of there being a third satellite antenna, directed to a second one of the plurality of satellite located proximate to the first satellite*”. The reference Mallinckrodt directed to a second antenna of the plurality of satellite located proximate to the first satellite, the same way can direct the a third satellite proximate to the first satellite.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, regarding Claim 8, Bond also teaches a receiver for receiving communication signals at one of the first and second antennas, the receiver including an antenna switch selector

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for selectively activating second antenna during periods when the sun transits within a beamwidth of the first antenna (Column I I lines 7-14). Therefore, it would have been obvious to the ordinary skill in the art at the time the invention was made to provide the above teaching of Bond to Mallinckrodt, in order for satellite system to avoid sun transit outage.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. **Any responses to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308--6296, (for formal communications indented for entry)

Art Unit:

Or:

(703) 308-6306, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, Va., sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communication from the examiner should
be directed to Melody Mehrpour whose telephone number is (703) 308-7159. The examiner can
normally be reached on Monday through Thursday (first week of bi-week) and Monday through
Friday (second week of bi-week) from 6:30 a.m. to 5:00 p.m.

NM

April 8, 2001


VIVIAN CHANG
SUPERVISORY PATENT EXAMINER
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